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GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 14193H4|63|Law.

Dated, Trivandrum, the 16th December, 1963|
Agrahayana 25, 1885.

The following Ordinance promulgated by the Governor on the 15th December, 1963, is hereby published for general information.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

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ORDINANCE No. 1 OF 1963

THE LUXURY TAX ON TOBACCO (VALIDATION) ORDINANCE, 1963

Promulgated by the Governor of Kerala in the Fourteenth Year of the Republic of India.

An Ordinance to provide for the levy of a luxury tax on tobacco for the period beginning with the 17th August, 1950 and ending on the 31st December, 1957 and the validation of the levy and collection of fees for licences for the vend and stocking of tobacco for the aforesaid period.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and extent.*—(1) This Ordinance may be called the Luxury Tax on Tobacco (Validation) Ordinance, 1963.

(2) It extends to the whole of the State of Kerala excluding the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(i) "prescribed" means prescribed by rules made by the Government under this Ordinance;

(ii) "tobacco" includes leaf of the tobacco plant, snuff, cigars, cigarettes, beedies, beedi tobacco, tobacco powder and other preparations or admixtures of tobacco,

3. *Charge of luxury tax.*—For the period beginning with the 17th day of August, 1950 and ending on the 31st day of December, 1957, every person shall be liable and shall be deemed always to have been liable to pay a luxury tax on tobacco in the form of a fee for licence for the vend and stocking of tobacco by him within any area to which this Ordinance extends, at such rates as may be prescribed, not exceeding the rates specified in the Schedule.

4. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the issue of licences for the vend and stocking of tobacco;

(ii) the classification of licences and the rate at which tax in the form of a fee for licence may be levied for each class of licences;

(iii) the procedure for the issue of licences;

(iv) appeals from orders under the rules.

(3) The rules and notifications specified below purported to have been issued under the Travancore Tobacco Act of 1087 (Travancore Act I of 1087) or the Cochin Tobacco Act, VII of 1084, as the case may be, in so far as they relate or purport to relate to the levy and collection of fees for licences for the vend and stocking of tobacco, shall be deemed to be rules issued under sub-section (1) and shall be deemed to have been in force at all material times:—

(i) the Travancore Tobacco Rules dated 5th July, 1913, as amended by Notification No. E2-5937|49|RD dated 3rd August, 1950, published in the Gazette Extraordinary dated 3rd August, 1950;

(ii) the rules issued under Notification No. E2-5937|49|RD dated 3rd August, 1950, and published in the Gazette Extraordinary dated 3rd August, 1950;

(iii) the rules issued under Notification No. E2-5937|49|RD dated 25th January, 1951 and published in the Gazette Extraordinary dated 25th January, 1951, as amended from time to time;

(iv) the rules issued under Notification No. E2-5937|49|RD dated 25th January, 1951 and published in the Gazette Extraordinary dated 25th January, 1951, as amended from time to time; and

(v) the Notification No. E2-5937|49|RD dated 23rd May, 1951, published in Part I of the Gazette dated 29th May, 1951.

5. *Validation.*—Notwithstanding any judgment, decree or order of any court, all fees for licences for the vend or stocking of tobacco levied or collected or purported to have been levied or collected under the rules specified in sub-section (3) of section 4 for the period beginning with the 17th day of August, 1950 and ending on the 31st day of December, 1957, shall be deemed to have been validly levied or collected in accordance with law as if this Ordinance were in force on and from the 17th day of August, 1950 and the fees for licences were a luxury tax on tobacco levied under the provisions of this Ordinance, and accordingly,—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any fees paid or purported to have been paid under the said rules; and

(b) no court shall enforce a decree or order directing the refund of any fees paid or purported to have been paid under the said rules.

6. *Recovery of licence fees refunded.*—Where any amount paid or purported to have been paid as a fee for licence under any of the rules specified in sub-section (3) of section 4 has been refunded after the 24th day of January, 1962 and such amount would not have been liable to be refunded if this Ordinance had been in force on the date of the refund, the person to whom the refund was made shall pay the amount so refunded to the credit of the Government in any Government treasury within four months of the date of publication of this Ordinance in the Gazette, and where such amount is not so paid, the amount may be recovered from him as an arrear of land revenue under the Revenue Recovery Act for the time being in force.

THE SCHEDULE

(*See* section 3)

Item No.	*Description*	*Rate of tax*
(1)	Jaffna tobacco	Rs. 1500 for the first 100 candies or fraction thereof and Rs. 1000 for every additional 100 candies or fraction thereof per annum or part thereof.
(2)	Tobacco produced in India (Unmanufactured)	Rs. 1000 for the first 100 candies or fraction thereof and Rs. 750 for every additional 100 candies or fraction thereof per annum or part thereof.
(3)	Beedi or/and beedi tobacco	Rs. 1000 for the first 25 candies or fraction thereof and Rs. 750 for every additional 25 candies or fraction thereof per annum or part thereof.
(4)	Tobacco preparations of all kinds	Rs. 1000, provided the value of the preparations does not exceed Rs. 20,000, and for every additional quantity of the value of Rs. 20,000 or part thereof Rs. 750 per annum or part thereof.

V. V. GIRI,
GOVERNOR.